

Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 1071: CHILD AND FAMILY SERVICES AND CHILD PROTECTION ACT

§4088. OUT-OF-HOME ABUSE AND NEGLECT INVESTIGATING TEAM

1. Definitions. As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

A. [2013, c. 368, Pt. CCCC, §3 (RP).]

B. "Department" means the Department of Health and Human Services. [1989, c. 400, §9 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

C. "License" has the same meaning as in Title 5, section 8002 and includes approval and registration. With respect to persons licensed by the Department of Education, "license" means certify, authorize or approve. [2001, c. 265, §1 (AMD).]

D. "Out-of-home abuse and neglect" means abuse and neglect of a child that occurs in a facility or by a person subject to licensure or inspection by the department, the Department of Education or the Department of Corrections or in a facility operated by any of these departments. [2003, c. 2, §79 (COR).]

D-1. [2007, c. 539, Pt. N, §33 (RP).]

E. "Team" means the out-of-home abuse and neglect investigating team. [1989, c. 400, §9 (NEW).]

[2013, c. 368, Pt. CCCC, §3 (AMD) .]

1-A. Applicability of other definitions. Any terms defined or used in section 4002 have the same meaning when used in this subchapter.

[1991, c. 824, Pt. A, §46 (AMD) .]

2. Team established. The out-of-home abuse and neglect investigating team is established to investigate reports of suspected abuse and neglect of children by persons or in facilities subject to licensure pursuant to this Title. The team is also authorized to assist other persons or agencies to investigate suspected abuse and neglect by persons or in facilities providing services to children that are subject to licensure pursuant to other Titles and to assist in investigations of suspected abuse and neglect in state-operated facilities providing services for children.

[1989, c. 400, §9 (NEW) .]

3. Authority and responsibility. The team has the following authority and responsibilities regarding investigation of out-of-home abuse and neglect. The team:

A. Receives all reports of out-of-home abuse and neglect. When a report of out-of-home abuse and neglect alleges jeopardy, as defined in section 4002, to a child in a residential care facility, the team shall initiate an investigation within 72 hours or request a safety plan from the facility. When a report of alleged out-of-home abuse and neglect in a residential care facility is received, the team shall use the facility's name as the identifier; [2003, c. 399, §3 (AMD).]

B. Shall investigate all reports received by the department regarding alleged out-of-home abuse and neglect occurring in facilities or by persons subject to licensure pursuant to this Title; [2007, c. 539, Pt. N, §34 (AMD).]

C. Shall conduct a single investigation sufficient to determine not only if abuse or neglect has occurred but also to determine whether a licensing violation has occurred in order to protect children from further harm and establish a basis upon which to take licensing action. This procedure minimizes duplicative or redundant investigations to the extent possible in response to the same or related allegations of out-of-home abuse or neglect in facilities or by persons subject to licensure pursuant to this Title; [2001, c. 265, § 3 (AMD) .]

D. Shall coordinate and consult with the department performing general licensing functions to eliminate duplicative or redundant investigations to the extent possible and to prevent, correct or eliminate the abuse or neglect or threat of abuse or neglect in out-of-home settings; [2007, c. 539, Pt. N, § 35 (AMD) .]

E. Shall provide the results of the investigation to the department or another department for appropriate action. The team shall complete the investigation within a time frame not to exceed 6 months from the date of the initiation of the investigation, except in circumstances when the information necessary to complete the investigation is unavailable to the team; [2007, c. 539, Pt. N, § 36 (AMD) .]

F. Shall include relevant professionals outside the department or service center as members of the team for all investigations of residential treatment centers, group homes or day care centers mandated by this subchapter and for other child care facilities as warranted; [2001, c. 265, § 3 (AMD) .]

G. When a report alleges out-of-home abuse and neglect in facilities or by persons not subject to licensure by the department, shall immediately refer the report to the agency or department charged with the responsibility to investigate such a report or, if applicable, to the state department operating the facility; [2007, c. 539, Pt. N, § 37 (AMD) .]

H. With respect to reports described in paragraph G, may, on its own initiative or upon request of another department or agency charged with the responsibility to investigate, participate in the out-of-home abuse and neglect investigation of persons or facilities subject to licensure or operated by the Department of Education, the Department of Corrections or the Department of Health and Human Services; [1989, c. 700, Pt. A, § 91 (AMD); 2003, c. 689, Pt. B, § 6 (REV) .]

I. Shall refer to the office of the district attorney or office of the Attorney General, when appropriate, any case in which criminal activity is alleged and shall coordinate its investigation with that office to minimize the trauma to the children involved; [2003, c. 399, § 3 (AMD) .]

J. Shall consult and train law enforcement personnel, advocates and others in the identification, reporting, prevention and investigation of out-of-home abuse and neglect as time allows; and [2003, c. 399, § 3 (AMD) .]

K. Shall state in the investigative report whether the allegations of out-of-home abuse or neglect have been substantiated. If the investigative report has substantiated out-of-home abuse or neglect, the report must identify the individual, facility or individual and facility responsible. [2003, c. 399, § 3 (NEW) .]

[2007, c. 539, Pt. N, §§34-37 (AMD) .]

4. Training. The team shall be trained in techniques of investigating out-of-home abuse and neglect of children, as well as child development; identification of abuse and neglect; interview techniques; treatment alternatives for perpetrators, victims and their families; licensing regulations applicable to facilities or persons licensed pursuant to Subtitle 6; and other statutory and regulatory remedies available to prevent, correct or eliminate abuse and neglect in out-of-home settings.

[1989, c. 400, § 9 (NEW) .]

5. Records; confidentiality; disclosure. Records created pursuant to this subchapter shall be maintained in accordance with section 4008 and shall not be disclosed except as provided by that section or by section 7703, subsections 2 to 4.

[1989, c. 400, §9 (NEW) .]

6. Assistance. Staff performing general licensing functions may assist the team in conducting out-of-home investigations upon the request of the department, as long as the licensing staff member has neither currently licensed nor monitored for compliance the subject of the investigation.

[2007, c. 539, Pt. N, §38 (AMD) .]

7. Access to records related to Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf. Notwithstanding Title 20-A, section 6101, subsection 2, when the team is conducting an investigation of a person at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf who is subject to licensure by the Department of Education, the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and the Department of Education shall disclose to the team records related to:

A. Background checks related to the person; [2001, c. 265, §4 (NEW) .]

B. The person's credentials; [2001, c. 265, §4 (NEW) .]

C. Any conduct on the part of the person related to the allegation; and [2001, c. 265, §4 (NEW) .]

D. Any action taken by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf or the Department of Education in response to conduct of any person at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf that is similar to the allegation. [2005, c. 279, §14 (AMD) .]

[2005, c. 279, §14 (AMD) .]

8. Due process. Any finding of out-of-home abuse or neglect made under this section is subject to the due process requirements of the Maine Administrative Procedure Act.

[2003, c. 399, §4 (NEW) .]

SECTION HISTORY

1989, c. 400, §§9,14 (NEW). 1989, c. 700, §§A90,91 (AMD). 1991, c. 824, §A46 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 265, §§1-4 (AMD). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §79 (COR). 2003, c. 399, §§1-4 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 279, §14 (AMD). 2007, c. 539, Pt. N, §§33-38 (AMD). 2013, c. 368, Pt. CCCC, §3 (AMD) .

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